



**BILLING CODE: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XS004**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Exempted Fishing Permits**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of an application for an amended exempted fishing permit; request for comments.

**SUMMARY:** NMFS announces the receipt of an application from the Florida Fish and Wildlife Conservation Commission (FWC) to expand the scope of an exempted fishing permit (EFP) issued in November 2018. The amended EFP would increase the sampling area from specified waters of the South Atlantic to all Federal waters of the South Atlantic off Monroe County, Florida and Federal waters of the Gulf of Mexico (Gulf) near Pulley Ridge. The amended EFP would also increase the amount of traps in the water at any one time, extend the trap soak period, would no longer require research traps to have a current stamp, endorsement, or certificate, and would no longer allow commercial fishermen to harvest and sell any species but lionfish from the research traps. The project seeks to determine the

effectiveness of traps, as applicable, for attracting and collecting invasive lionfish while avoiding impacts to non-target species, protected species, and habitats.

**DATES:** Written comments must be received on or before August 31, 2019.

**ADDRESSES:** You may submit comments on the application, identified by "NOAA-NMFS-2019-0084" by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0084](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0084), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Kelli O'Donnell, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be

publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Electronic copies of the application and programmatic environmental assessment (PEA) may be obtained from the Southeast Regional Office website at

*<https://www.fisheries.noaa.gov/southeast/commercial-fishing/lionfish-traps-exempted-fishing-permit-applications>*.

**FOR FURTHER INFORMATION CONTACT:** Kelli O'Donnell, 727-824-5305; email: *Kelli.ODonnell@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The amended EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Lionfish is an invasive marine species that occurs in both the Gulf and South Atlantic and is not currently managed by NMFS in Federal waters. The amended EFP application submitted by FWC requests the use of prohibited gear in Federal waters. Federal regulations prohibit the use or possession of a fish trap in Federal waters in the Gulf and South Atlantic (50 CFR 622.9(c)). In South Atlantic Federal waters, the term "fish trap" refers to a trap capable of taking fish, except for a seabass pot, a golden crab trap, or a crustacean trap (that is, a type of trap historically used in the

directed fishery for blue crab, stone crab, red crab, jonah crab, or spiny lobster and that contains at any time not more than 25 percent, by number, of fish other than blue crab, stone crab, red crab, jonah crab, and spiny lobster). In Gulf Federal waters, the term "fish trap" refers to a trap capable of taking fish, except for a trap historically used in the directed fishery for crustaceans (that is, blue crab, stone crab, and spiny lobster) (50 CFR 622.2). The amended EFP would exempt these activities from the regulation prohibiting the use or possession of a fish trap in Federal waters of the South Atlantic or the Gulf at 50 CFR 622.9(c), and would allow the applicant to use modified spiny lobster traps to target lionfish. Because FWC requested that the amended EFP remove the requirement that research traps have a current endorsement, stamp, or certification and allow sampling during the spiny lobster closed season, the EFP would exempt research traps from the gear identification requirements at 50 CFR 622.402(a) and exempt the activities from the seasonal closures at 50 CFR 622.403. The amended EFP would also exempt the project activities from the closed seasons, size limits, and bag limits at 50 CFR 622.34, 622.37, and 622.38 to allow FWC to retain other fish for species identification verification and scientific research. The applicant's original EFP tests the effectiveness of different

trap modifications in capturing lionfish while avoiding impacts to non-target species, protected species, and habitats. NMFS analyzed the effects of testing traps that target lionfish on the environment, including effects on Endangered Species Act (ESA)-listed species and designated critical habitat, and other non-target species and habitat, in the Gulf and South Atlantic regions through a PEA titled "Testing Traps to Target Lionfish in the Gulf of Mexico and South Atlantic, including within the Florida Keys National Marine Sanctuary." This PEA was used to support the original EFP for this research in certain South Atlantic Federal waters off Monroe County, Florida. The application notice for the original EFP request published in the **Federal Register** on July 2, 2018 (83 FR 30916) and the EFP was subsequently issued by NMFS on November 13, 2018. Before issuing the amended EFP, NMFS will analyze whether the proposed effort fits within the scope of the PEA and the ESA analysis on the expected effort under the PEA. If the proposed activities fit within the PEA and the ESA consultation, NMFS will document that determination for the record. Otherwise, NMFS will complete the required analyses.

The specific amended EFP request noticed here is further described and summarized below.

FWC is requesting authorization to test standard and modified wire

spiny lobster traps in the South Atlantic and the Gulf to harvest lionfish aboard federally permitted commercial spiny lobster fishing vessels. Like the original EFP, the proposed activities would examine the effectiveness and performance of modified trap designs for capturing lionfish, with the goal of identifying the best lobster trap modification to maximize lionfish catch and reduce bycatch of other species. Traps would be fished in a trawl configuration with a maximum of 32 traps and 2 surface buoys per trawl. Spiny lobster trap modifications to be tested by the applicant would include funnel and escape gap dimensions and locations, in addition to bait types. Some traps may be outfitted with lionfish optical recognition technology. Modified traps would be compared to standard wire spiny lobster trap controls. As described in the application, the sampling area would increase from Alligator and Looe Key in the Florida Keys of the South Atlantic to all Federal waters of the South Atlantic off Monroe County, Florida and portions of the Gulf. In the Gulf, sampling with traps would occur in depths from 150-300 feet (46-91 meters) southwest of a line defined by 25°21' N. lat., 84°00' W. long at the northwest corner and by 24°28' N. lat., 83°00' W. long., at the southeast corner. The amended EFP would increase sampling from two times per month in the South Atlantic to two to four times per month in the South Atlantic and Gulf. Only areas open to commercial

lobster fishing will be included in the study area and fishing would occur throughout the calendar year, including during the spiny lobster closed season. The amended EFP would increase the number of traps allowed in the water at any one time from 100 to 300 (200 and 100 in the South Atlantic and Gulf regions, respectively). The amended EFP would increase the maximum trap soak period from 21 to 28 days per deployment. The amended EFP would also increase the maximum number of sampling trips from 40 to 160 trips per year. Bait to be used in the traps could include live lionfish, plastic decoy lionfish, artificial lures, fish oil, and fish heads. As practicable, video and still photos of trap deployment and animal behavior in and near traps would be recorded using cameras.

FWC would contract commercial trap fishermen with experience fishing within the study area. The amended EFP would no longer require research traps to have a current stamp, endorsement, or certificate, but FWC would mark each research trap. Additionally, the contractors must have demonstrable experience in the catch and handling of lionfish. The applicant expects the activities to be conducted from up to eight federally permitted commercial fishing vessels. At least one FWC scientist would be on board a vessel at all times, *i.e.*, on both deployment trips and retrieval trips. Data to be collected per trip would include: gear configuration and fishing effort data (*e.g.*,

date and time of deployment and retrieval, latitude, longitude, and water depth of each deployed trawl, bait type used); soak time for each trawl; trap loss and movement from original set position; protected species interactions; bycatch species (amount, length, and disposition); and lionfish catch data for each trap type. Some species would be returned to the water as soon as possible; other species would be retained for species identification verification and scientific research. All lionfish would be retained and either used for research, sold, or destroyed. NMFS notes that the original EFP allowed contracted fishermen to sell any legally harvested species. FWC has now requested that NMFS remove this provision from the EFP and allow fishermen to retain and sell only lionfish. FWC would be allowed to retain representative sub-samples of any fish species for species identification verification and research in the laboratory.

The applicant has requested to amend its current EFP as described, but to retain the original EFP's effective period of 3 years from the date of original issuance of the permit by NMFS on November 13, 2018.

NMFS finds the application warrants further consideration based on a preliminary review. Possible conditions the agency may impose on the permit, if granted, include but are not limited to, a prohibition



on conducting activities within marine protected areas, marine sanctuaries, special management zones, or areas where they might interfere with managed fisheries without additional authorization. Additionally, NMFS may require special protections for ESA-listed species and designated critical habitat, and may require particular gear markings. A final decision on issuance of the amended EFP will depend on NMFS' review of public comments received on the application, consultations with the appropriate fishery management agencies of the affected states, Councils, and the U.S. Coast Guard, and a determination that the activities to be taken under the EFP are consistent with all applicable laws and regulations.

Authority: 16 U.S.C 1801 *et seq.*

Dated: August 5, 2019.

**Jennifer M. Wallace,**

*Acting Director,*

*Office of Sustainable Fisheries,*

*National Marine Fisheries Service.*

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